



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

AR/itw

05-08-06
NOTICE OF APPEAL FROM THE EXAMINER
TO THE BOARD OF APPEALS

Appellant: Falla et al.
Serial No.: 10/611,682
Filed: July 1, 2003
For: Methods of Making Cotton Blend Glue Brassieres
Examiner: Gloria Hale
Art Unit: 3765
Confirmation No.: 5335
Customer No.: 27673 Attorney Docket: PL083USQ

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Alexandria, VA 22313-1450

We are enclosing for filing in the above-identified application the following:

1. Appellant's Reply Brief (*in triplicate*);
2. Transmittal letter in duplicate; and
3. Postcard.

Please charge any additional fees or credit any such fees, if necessary to Deposit Account No. **01-0467** in the name of Ohlandt, Greeley, Ruggiero & Perle. A duplicate copy of this sheet is attached.

Respectfully submitted,

Charles N.J. Ruggiero
Registration No. 28,468
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682
Telephone: (203) 327-4500
Telefax: (203) 327-6401

May 5, 2006
Date

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Certificate No. **EV738212750US**, service under 37 CFR §1.10 and is addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 5, 2006.

J. Nicole Smith
(Typed name of person mailing paper)

(Signature of person mailing paper)



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Serial No.: 10/611,682
For: METHODS OF MAKING COTTON BLEND GLUE
BRASSIERES
Filed: July 1, 2003
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Confirmation No.: 5335
Customer No.: 27,623
Attorney Docket No.: PLO83USQ

**Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

REPLY BRIEF FILED UNDER 35 U.S.C. §134

Dear Sir:

In response to the Examiner's Answer dated April 26, 2006, Appellants file herewith a Reply Brief under 35 U.S.C. §134 and 37 C.F.R. §41.41.

Independent claims 1, 14, and 19 are all directed to methods of forming an undergarment, where each claim recites, in part, that the "subassembly" or "stretchable laminate" has "a periphery that is larger than an entire outer periphery of the undergarment".

The Examiner's Answer asserts that "the garment of Gluckin is an undergarment whether it is a full, half, or partial undergarment as broadly claimed since an

undergarment is a garment that is worn under another outer garment". See page 7, lines 18-20.

Thus, the rejection of claims 1, 14, and 19 is based on the assertion that half an undergarment or a partial undergarment is the same as an undergarment.

Appellants respectfully submit that this assertion is clearly erroneous.

During patent examination, the pending claims must be "given *>their< broadest reasonable interpretation consistent with the specification." *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). However, the broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach (emphasis added). *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

Appellants respectfully submit that the interpretation of the "an undergarment" to be anticipated by a half or partial undergarment is simply not a reasonable interpretation of this element and is not consistent with the interpretation that those skilled in the art would reach.

The claims are not directed to a method of forming half of an undergarment. Further, the claims are not directed to a method of forming part of an undergarment. Rather, the claims are directed to a method of forming an undergarment.

Further, the Examiner's Answer asserts that the claimed "an entire outer periphery of the undergarment" is interpreted as "any outer periphery on the Gluckin brassiere". See page 8, lines 5-6.

Appellants respectfully submit that this assertion is also clearly erroneous.

Again, the broadest reasonable interpretation of the claims must also be

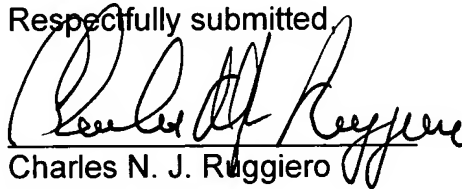
consistent with the interpretation that those skilled in the art would reach (emphasis added). *Id.*

Appellants respectfully submit that the interpretation of the "an entire outer periphery of the undergarment" to be anticipated by any outer periphery of the Gluckin brassiere is simply not a reasonable interpretation of this element and is not consistent with the interpretation that those skilled in the art would reach.

In summary, Appellants respectfully request that the Board of Appeals reverse the final rejections of claims 1 through 23, thereby enabling all of the pending claims to be allowed.

May 5, 2006

Respectfully submitted,



Charles N. J. Ruggiero
Reg. No. 28,468
Attorney for Appellant(s)
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th floor
Stamford, CT 06901-2682
Tel: (203) 327-4500
Fax: (203) 327-6401